

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Proposed Policies and Programs Governing post-2003 Low-Income Assistance Programs.	Rulemaking 04-01-006 (Filed January 8, 2004)
In the Matter of the Application of PACIFICORP for Approval of 2005 Low-Income Assistance Program Budgets.	Application 04-06-038 (File June 30, 2004)
In the Matter of the Application of Southwest Gas Corporation (U 905 G) for Approval of Program Year 2005 Low-Income Assistance Program Budgets.	Application 04-07-002 (Filed June 30, 2004)
Application of Southern California Gas Company (U 904 G) for Approval of Program Year 2005 Low-Income Assistance Programs and Funding.	Application 04-07-010 (Filed July 1, 2004)
Application of San Diego Gas & Electric Company (U 902 M) for Approval of Program Year 2005 Low-Income Assistance Programs and Funding.	Application 04-07-011 (Filed July 1, 2004)
Southern California Edison Company's (U 338-E) Application Regarding Low-Income Assistance Programs for Program Year 2005.	Application 04-07-012 (Filed July 1, 2004)

Application of Pacific Gas and Electric Company (U 39 M) for Approval Of The 2005 California Alternate Rates for Energy and Low Income Energy Efficiency Programs and Budget.	Application 04-07-013 (Filed July 1, 2004)
IN THE MATTER of the Application SIERRA PACIFIC POWER COMPANY (U 903), for an Order Approving its 2005 California Alternate Rates for Energy (CARE) and Low Income Efficiency (LIEE) Plans and Budgets.	Application 04-07-014 (Filed July 1, 2004)
In the Matter of the Application of Avista Corporation for Approval of Program Year 2005 Low-Income Assistance Program Budgets.	Application 04-07-015 (Filed July 1, 2004)
In the Matter of the Application of the SOUTHERN CALIFORNIA WATER COMPANY (U 133 W) Regarding Low Income Assistance Programs for its Bear Valley Electric Service Customers for Program Year 2005.	Application 04-07-020 (Filed July 8, 2004)
Application of Alpine Natural Gas Operating Company No. 1 LLC in Compliance with Decision 03-12-016 (PY 2004 Low Income Energy Efficiency ("LIEE") and California Alternate Rates For Energy ("CARE") program Plans).	Application 04-07-027 (Filed July 2, 2004)
In the Matter of the Application of West Coast Gas Company (U-910-G) For Approval of Program Year 2005 Low-Income Assistance Program Budgets.	Application 04-07-050 (Filed July 29, 2004)

**SECOND ADMINISTRATIVE LAW JUDGE'S RULING
REGARDING ASSEMBLY BILL 868**

This ruling requests that investor-owned utilities (IOUs) (Pacific Gas and Electric Company, Southern California Edison Company, Southern California Gas Company, and San Diego Gas & Electric Company) and small and multijurisdictional utilities (SMJUs) (Sierra Pacific Power Company, Bear Valley Electric Service Company/Southern California Water Company, PacifiCorp, Southwest Gas Corporation, Alpine Natural Gas Company Operating Company No. 1 LLC, Avista Utilities, and West Coast Gas Company) file reply comments responding to the issues the Commission's Office of Ratepayer Advocates (ORA) raised in comments filed November 16, 2004 with regard Assembly Bill (AB) 868, as follows:

1. Whether migrant farm labor centers other than those that report to the Office of Migrant Services are entitled to CARE discounts pursuant to AB 868 and, if not, whether the Commission can and should consider a similar eligibility exception for such facilities.

- a. Whether it is appropriate to exempt some centers (*i.e.*, those reporting to OMS) but not all migrant farm housing centers from the 100 percent eligibility requirement and whether the Commission can or should extend a similar exemption to other centers.
- b. Whether migrant farm labor centers that may not work with OMS can or should be eligible for a similar eligibility exception.

More detail on this issue is contained in ORA's pleading, Attachment A hereto.

2. Whether the IOUs and SMJUs should change their tariffs as ORA advocates.

The comments should be served and filed on or before December 1, 2004.

IT IS SO RULED.

Dated November 22, 2004, at San Francisco, California.

/s/ Sarah R. Thomas
Sarah R. Thomas
Administrative Law Judge

ATTACHMENT A

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on
the Commission's Proposed Policies
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Application 04-07-020
(Filed July 8, 2004)

Application 04-07-027
(Filed July 2, 2004)

Application 04-07-050
(Filed July 29, 2004)

And Related Matters.

COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES ON SMALL AND MULTI-JURISDICTIONAL UTILITIES

**AND LARGE INVESTOR-OWNED UTILITIES
IMPLEMENTATION PLANS FOR ASSEMBLY BILL 868**

On October 1, 2004, Administrative Law Judge (“ALJ”) Thomas issued a ruling (“Ruling”) seeking input on the implementation of Assembly Bill (“AB”) 868, which extends the benefits of the California Alternate Rates for Energy (“CARE”) program to migrant farm labor centers, “[b]ecause of the presumed income levels of the occupants.”¹ This Ruling ordered Southern California Edison Company, Southern California Gas Company, San Diego Gas and Electric Company, and Pacific Gas and Electric Company (“PG&E”), collectively known as the large investor-owned utilities or IOUs, to submit a plan for enrolling migrant farm labor centers in CARE as required in AB 868. The Ruling also ordered Sierra Pacific Power Company, Bear Valley Electric Service Company, PacifiCorp, Southwest Gas Company, Alpine Natural Gas Company, Avista Utilities, and West Coast Gas Company, known as the Small and Multi-Jurisdictional Utilities or SMJUs, to develop and submit an implementation plan for AB 868 in their service territories.

On November 1, 2004, both groups of utilities served their responses to this Ruling, describing proposals for implementing CARE for migrant farm labor centers. As discussed below, the Office of Ratepayer Advocates (ORA) recommends that the Commission order the utilities to revise their tariffs to comply with the requirements of AB 868. ORA also recommends the Commission order the utilities to further brief the issue of whether migrant farm labor centers other than those that report to the Office of Migrant Services (“OMS”) are entitled to CARE discounts pursuant to AB 868 and, if not, whether the Commission can and should consider a similar eligibility exception for such facilities.

¹ California Health and Safety Code Section 50710.1 (e), AB 868.

I. LARGE IOUs AND SMJUs SHOULD REVISE THEIR TARIFFS SO THAT THEY PROVIDE SIMILAR ELIGIBILITY REQUIREMENTS FOR COVERED HOUSING CENTERS REGARDLESS OF UTILITY SERVICE TERRITORY.

In their response to the ALJ Ruling, the IOUs describe the effect of AB 868, which they say “allows [them] to categorically enroll the OMS Migrant Housing Centers, thus overriding the 100% eligibility criterion that has kept them from participating before.”² Apparently, in past years PG&E was unable to enroll migrant housing customers because “one or two families barely miss[ed] the income criteria.”³ The IOUs recommend creating a new application for these facilities and remove the 100 percent resident eligibility requirement for OMS Migrant Housing Centers, one set of entities covered by the CARE expansion program tariff.⁴ Because the current CARE expansion program tariff includes the 100 percent eligibility requirement, the IOUs will need to modify the current tariffs to remove the 100 percent eligibility requirement for those entities covered by AB 868.⁵

In contrast, the SMJU’s response to the ALJ Ruling states that the previous extension of CARE to agricultural housing “includes migrant housing centers under existing SMJU tariffs” and, therefore, “existing SMJU rate schedules already reflect appropriate terms and conditions for migrant housing centers to receive the CARE discount.”⁶ However, the relevant tariff of PacifiCorp, the one SMJU with an identified

² Joint Utility Response, p. 3.

³ Ibid.

⁴ The expansion program includes certain non-profit group living facilities (Public Utilities Code Section 739.1 and migrant farm worker house centers pursuant to Health and Safety Code Section 50710, employee housing as defined by Health and Safety Code Section 17008 and housing for agricultural employees as defined by Labor Code section 1140.4 (Public Utilities Code Section 739.2)

⁵ Attached, for example, is PG&E’s current tariff Rule 19.3. Attachment A.

⁶ SMJU Filing, November 1, 2004, page 1.

migrant housing center in its territory, includes the requirement that 100 percent of facility residents meet CARE guidelines. The SMJU Response to the ALJ ruling did not indicate a need to remove this requirement from the applications or tariffs.

ORA agrees with the IOUs that, pursuant to AB 868, migrant housing centers are categorically eligible for CARE programs and should no longer be subject to the previous 100 percent resident eligibility requirement. As AB 868 states, the centers “shall be deemed eligible” for the CARE program because of the presumed income levels of the occupants.⁷ Therefore, both the IOUs and the SMJUs should change their tariffs and applications to remove any requirement that 100 percent of the center’s residents meet the CARE eligibility requirements.

II. THE COMMISSION SHOULD ASK FOR FURTHER BRIEFING ON WHETHER AB 868 APPLIES TO MIGRANT FARM LABOR CENTERS THAT DO NOT REPORT TO THE OFFICE OF MIGRANT SERVICES.

In discussions with PG&E, ORA learned that there are some migrant farm labor housing centers that are functionally equivalent to those that report to OMS, but that may not work with OMS. A PG&E representative indicated that these centers might be run by local or not-for-profit agencies. These may also include other entities mentioned in Public Utilities Code Section 739.2 such as housing for agricultural employees as defined by Labor Code Section 1140.4. The responses filed by the IOUs and SMJUs do not address these other centers thus implying that they are not qualified pursuant to AB 868 to be automatically eligible for the CARE program. From first review, it is not clear that AB 868 excludes these other centers. While sections (a) through (d) of Health and Safety Code Section 50710.1 specifically state that the section applies to migrant farm labor centers “governed by this chapter” section (e), which relates to the CARE eligibility

⁷ Health and Safety Code Section 50710.1 (e). ORA notes that the legislative history to AB 868 is consistent with this interpretation. The June 30, 2004 Senate Floor Analyses states “This bill states that migrant farm labor centers are automatically eligible for the California Alternate Rates for Energy (CARE) Program.”

requirement, has no such reference. There is no definition of “migrant farm labor center” within Health and Safety Code Section 50710.1. ORA recommends that the Commission order the utilities to brief the issue of whether migrant farm labor centers which do not work with OMS could be covered by AB 868.

If in fact it is determined that AB 868 applies only to migrant farm labor centers that work with the OMS, the Commission may still want to consider whether it is appropriate to exempt some centers (i.e. those reporting to OMS) but not all migrant farm housing centers from the 100 percent eligibility requirement and whether the Commission can or should extend a similar exemption to other centers. ORA recommends that the Commission also seek comments from parties on whether migrant farm labor centers that may not work with OMS can or should be eligible for a similar eligibility exception.

III. CONCLUSION

The Office of Ratepayer Advocates appreciates this opportunity to provide input into the implementation of the extension of the CARE discount to migrant farm labor centers under AB 868. ORA recommends that the Commission order the utilities to revise their tariffs to remove the 100 percent eligibility requirement for migrant farm labor centers to comply with the requirements of AB 868. ORA also recommends the Commission order the utilities to further brief the issue of whether migrant farm labor centers other than those that report to the Office of Migrant Services are entitled to CARE discounts pursuant to AB 868 and, if not, whether the Commission can and should consider a similar eligibility exception for such facilities.

Respectfully submitted,

/s/ Monica McCrary

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R.04-01-006 et al. SRT/avs

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November 16, 2004

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the foregoing document
“**COMMENTS OF THE OFFICE OF RATEPAYER ADVOCATES ON
SMJU AND LARGE IOU IMPLEMENTATION PLANS FOR AB 868**” in
R.04-01-006, et al.

A copy was served as follows:

☒ **BY E-MAIL:** I sent a true copy via e-mail to all known parties of record
who have provided e-mail addresses.

☐ **BY MAIL:** I sent a true copy via first-class mail to all known parties of
record.

Executed in San Francisco, California, on the 16th day of November, 2004.

/s/ NELLY SARMIENTO
NELLY SARMIENTO

(END OF ATTACHMENT A)

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Second Administrative Law Judge's Ruling Regarding Assembly Bill 868 on all parties of record in this proceeding or their attorneys of record.

Dated November 22, 2004, at San Francisco, California.

/s/ Antonina V. Swansen
Antonina V. Swansen

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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